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Researching Services

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19304

RECORDATION NO. _____ FILED 1425

MAR 22 1995 10 20 AM

INTERSTATE COMMERCE COMMISSION

March 22, 1995

Mr. Vernon Williams
Secretary
Interstate Commerce Commission
12th & Constitution Avenue, N.W.
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed is a Locomotive Operating Lease Agreement dated 1/27/95
between the following parties:

Lessor: Electro-Motive Division,
General Motors Corporation
LaGrange, IL 60525

Lessee: Union Pacific Railroad Company
1416 Dodge Street
Omaha, NE 68179

The equipment included in this lease is listed on Schedule A.

Please file this agreement as a primary document. The filing fee
of \$21 is enclosed. Thank you.

Sincerely,

Mary A. Oster

Mary Ann Oster
Research Consultant

Enclosure

LICENSING BRANCH

MAR 22 9 45 AM '95

RECEIVED
OFFICE OF THE
SECRETARY
MAR 22 1995

Counterparts - Mary A. Oster



Interstate Commerce Commission

Washington, D.C. 20423-0001

3/22/95

Office Of The Secretary

Mary Ann Oster
Research Consultant
Oster Researching Services
12897 Colonial Drive
Mt. Airy, MD 21771

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/22/95 at 9:50AM, and assigned recordation number(s). 19304, 19305, 19306, 19307 and 19308

Sincerely yours,

Vernon A. Williams
Secretary

Enclosure(s)

(0100568008)

\$ 105.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature

LOCOMOTIVE OPERATING LEASE AGREEMENT

THIS LEASE, made and entered into as of this 27 day of January 1995, by and between Electro-Motive Division, General Motors Corporation, a Delaware corporation, hereinafter called "Lessor", and the Union Pacific Railroad Company, a Utah corporation, hereinafter called "Lessee".

RECORDATION NO. 19304 FILED 1995

LESSOR AND LESSEE HEREBY AGREE AND COVENANT AS FOLLOWS:

MAR 27 1995 10:00 AM

INTERSTATE COMMERCE COMMISSION

1. Lease:

Lessee agrees to lease from Lessor the locomotives described in Schedule A hereto together with all replacement parts, additions, repairs and accessories incorporated therein and/or affixed thereto (the "Locomotives") for use by Lessee in interstate commerce.

Lessee will cause the Locomotives to be kept numbered with the identification numbers set forth in **Schedule A** and will keep and maintain, permanently and conspicuously marked on each side of each Locomotive, in letters not less than one inch in height, the words "Ownership Subject to a Security Interest On File With The Interstate Commerce Commission", with appropriate changes thereof as from time to time may be required by law, in the opinion of Lessor, in order to protect the Lessor's title to and interest in the Locomotive and the rights of the Lessor under this Lease. Lessee will not place any Locomotive in operation or exercise any control or dominion over the same unless such words are so marked and will replace promptly any such markings which may be removed, obliterated, defaced or destroyed. Lessee will not change the identification number of any Locomotive unless and until a statement of the new number therefor is delivered to Lessor and filed in all public offices where this Lease may be filed.

Lessee will not allow the name of any person, association or corporation to be placed on any Locomotive as a designation that might be interpreted as a claim of ownership.

2. Rent/Term:

- (a) Lessor shall deliver the Locomotives in good operating condition, and in compliance with all applicable rules and regulations as set forth by the Federal Railroad Administration (FRA) and the American Association of Railroads (AAR). Rent with respect to each Locomotive shall commence when it is delivered to an interchange point on Lessee's lines, and shall continue for the period stated in **Schedule B** hereto. The Daily Rental shall be determined in accordance with **Schedule B** hereto.
- (b) Delinquent installments of rent shall bear interest at the rate of 1% per month if not prohibited by law, otherwise at the highest lawful contract rate.
- (c) Lessee shall not be entitled to any reduction of rent nor any setoff, counterclaim, recoupment or defense against rent or any other amount payable hereunder for any reason whatsoever, including, but not limited to, reductions, setoffs, counterclaims, recoupments or defenses due or alleged to be due by reason of any past, present or future claims of Lessee against Lessor or any other person for any reason whatsoever, nor shall this Lease terminate nor the obligations of Lessee be otherwise affected by reason of any defect in the condition, design, operation or fitness for use of any Locomotive or damage to or loss of possession or use or destruction thereof from whatever cause and of whatever duration except as otherwise provided herein.

3. Warranties and Representations:

Lessee acknowledges that Lessor has no knowledge or information as to the condition or suitability of the Locomotives for Lessee's purposes and Lessor's decision to enter into this Lease is made in reliance on Lessee's undertakings herein. LESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND RESPECTING THE LOCOMOTIVES, WHETHER STATUTORY, WRITTEN, ORAL OR IMPLIED, AND LESSOR HAS NOT MADE AND SHALL NOT BE DEEMED BY VIRTUE OF HAVING EXECUTED THIS LEASE TO HAVE MADE ANY REPRESENTATION OR WARRANTY AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESIGN OR CONDITION OF THE LOCOMOTIVES, ALL OF WHICH ARE EXPRESSLY DISCLAIMED AND LESSOR SHALL NOT BE LIABLE, IN CONTRACT, OR TORT BECAUSE OF ANY DEFECT WHETHER HIDDEN, LATENT, OR OTHERWISE DISCOVERABLE OR NONDISCOVERABLE RESPECTING ANY LOCOMOTIVE. Lessee accordingly agrees not to assert any claim whatsoever against Lessor based thereon. Lessee further agrees, regardless of cause, not to assert any claim whatsoever against Lessor for loss of anticipatory profits or consequential damages.

4. Payment of Rent:

Lessee shall wire transfer immediately available funds in payment of the monthly rent in advance to the following account (or third party if instructed to do so by Lessor) within the first ten working days of receipt of an invoice from Lessor.

Electro-Motive Division of General Motors Corporation
c/o 1st National Bank of Chicago
ABA Number 071-000013
Account No. 50-63191 "Rental Income Account"

5. Recordkeeping; Inspection:

Lessee agrees to keep and maintain and make available to Lessor for the duration of the Lease term and any renewal terms, and for not less than six (6) months following the expiration of this Lease any and all records of Lessee's use, operation, inspection, repairs and maintenance of the Locomotives while subject to this lease as shall be normally maintained by Lessee and as such may be reasonably requested by Lessor. Lessor's agents shall have the right at all reasonable times, to go upon the property of Lessee to inspect the Locomotives.

6. Casualty/Condemnation:

- (a) Lessee shall notify Lessor in the event any Locomotive shall be lost, stolen, destroyed, irreparably damaged, permanently rendered unfit for use or Lessee and Lessor mutually agree is damaged beyond economical limit of repair, from any cause whatsoever, other than acts or omissions of Lessor (any such occurrence being hereinafter called a "Casualty Occurrence"). On the payment date next following the date of any Casualty Occurrence, Lessee shall (i) pay to Lessor any unpaid rent due on or prior to such date, and (ii) pay Lessor the Casualty Value of the Locomotive as stated in **Schedule A** hereto.
- (b) Upon payment of any Casualty Value, the terms of this Lease shall no longer apply to the Locomotive which was the subject of such payment and title to and rights in such Locomotive

shall thereupon vest in the Lessee; provided, however, the Lessor shall have the option, to be exercised within fifteen (15) days after any such payment by Lessee, to retain the subject Locomotive upon payment to Lessee of the scrap or salvage value thereof, to be determined by mutual agreement or, failing such agreement, by the average of the bids thereon by three independent parties. Lessee shall furnish Lessor with certificates or other evidence of compliance with this Section 6 as may be reasonably required.

- (c) In the event that a Locomotive is taken or requisitioned by condemnation or otherwise by any governmental entity for a period which shall exceed the remaining term hereof, Lessor shall relieve Lessee from rental payments for such Locomotive effective with the date it was first requisitioned or condemned and settle with such governmental entity upon appropriate consideration for such taking. Lessee shall immediately pay over to Lessor any proceeds which it may receive in consideration of any such taking.

7. Indemnity:

Lessee agrees to indemnify, protect and hold harmless Lessor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, and reasonable expenses in connection therewith, including, but not limited to, reasonable counsel fees arising from: (a) Lessee's failure to promptly perform any of its obligations under Sections 2, 6, 8 or 16 hereof, or (b) injury to persons or property resulting from or based upon the actual or alleged use, or transportation of any Locomotive hereunder, or (c) any repair, servicing or adjustment of any Locomotive or any delay in providing or failure to provide any thereof, or (d) any interruption of service or loss of business. Lessee shall also, at its own cost and expense, defend any and all suits which may be brought against Lessor upon any such liability or claim and shall satisfy, pay and discharge any and all judgments and fines that may be recovered against Lessor in any such action provided Lessor gives Lessee written notice of any such claim or demand. Lessee shall not be required to indemnify Lessor for any loss, liability or expense to the extent such loss, liability or expense results resulting from the breach of any repair obligation of Lessor hereunder or gross negligence or willful misconduct of Lessor or from the final adjudication of strict liability in tort. The indemnities arising under this section shall continue in full force and effect notwithstanding the full payment of all other obligations hereunder or the expiration or termination hereof.

Lessee agrees to prepare and deliver to Lessor, upon request and within a reasonable time prior to the required filing date (or to the extent permissible, file on behalf of Lessor) any and all reports (other than tax returns) to be filed by Lessor with any regulatory authority by reason of Lessor's ownership or lease of the Locomotives.

8. Compliance with Law - Repair and Maintenance:

Lessee shall comply with all applicable FRA requirements, the interchange rules of the Association of American Railroads and all other applicable governmental laws, regulations and requirements with respect to the use, maintenance and operation of the Locomotives during this Lease. Lessee shall use the Locomotives only in the manner for which they are designed and intended, so as to subject them only to ordinary wear and tear. Nothing contained herein shall be construed as requiring the Lessee to make modifications, alterations, or additions to or removal from the Locomotive, in order to comply with applicable laws and regulations. In the event any modifications, alterations or additions to or removal from a Locomotive is made to comply with applicable laws and regulations, the cost of same shall be borne by Lessor.

The respective obligations of the parties for maintenance of the Locomotives are set forth in **Schedule C**. Except for Lessor's obligations thereunder, nothing shall be construed to limit the obligation of Lessee, at its own cost and expense, to maintain and service the Locomotives in accordance with prudent industry practice and applicable manufacturer recommendations so that they will remain (a) in as good operating condition as when delivered (ordinary wear and tear excepted), (b) in compliance with all applicable laws and regulations, and (c) suitable for immediate use in line-haul service. The Locomotives shall be maintained or scheduled for maintenance on a basis equivalent to Lessee's customary maintenance schedule for similar equipment. Any parts installed or replacements made by Lessee upon the Locomotives shall be considered accessions to the Locomotives and title thereto shall be immediately vested in Lessor, without cost or expense to Lessor; any failed or worn parts removed by Lessee in connection with any of the foregoing activities become Lessee's property, provided, however, that Lessee may remove from the Locomotives any communications, train control, telemetry, recording and other specialized equipment, which Lessee paid for and installed, but only if such removal may be accomplished without damage to the Locomotives.

9. No Purchase Option: Delivery of Locomotives to Lessor:

Lessee has no option to purchase the Locomotives. Upon any termination of this Lease, Lessee shall deliver the Locomotives to the Chicago and North Western railroad Proviso, Illinois rail yard. The Locomotives are to be clean and in good operating order, with no FRA defects and in such condition that the Locomotive would be acceptable in every respect for immediate operation on, or sale or lease to, a Class I line-haul railroad (not then or prospectively a debtor in any insolvency, bankruptcy or reorganization proceedings).

Lessor will perform a joint inspection with Lessee to determine that the Locomotives meet the criteria contained in the above paragraph. The Lessee will be solely responsible for the return condition of the Locomotives. Following a joint inspection and upon sole determination by Lessor if any Locomotive(s) is determined to have non-OEM or non-OEM approved components, is missing components, or has non model indicated components installed, the Locomotive(s) will not be accepted for return until the shortcomings are remedied by the Lessee. The Terms and Conditions of this Lease will remain in full force during this process until the Locomotive(s) are accepted for return.

10. Assignment by Lessee:

Lessee shall not assign or sublet its interest under this Lease, or any part hereof, or permit the use or operation of the Locomotives by any other person, firm or corporation without the prior written consent of Lessor. Lessor expressly consents to incidental operation and use on railroads other than the Lessee's under standard run through arrangements with other Class I North American railroads.

The Lessee agrees that during the Term of this Lease, the Lessee will not assign any Locomotive to service involving the operation and/or maintenance thereof outside of the United States of America.

Notwithstanding any assignment or sublet as provided in this Section, Lessee shall not be relieved of its obligations hereunder without the written consent of the Lessor.

11. Assignment by Lessor:

Lessor may at any time assign its rights and obligations hereunder. In such event Lessor's assignee shall have, to the extent provided in the assignment, the rights, powers, privileges and remedies of Lessor hereunder; provided, however, that no assignment shall relieve Lessor of its obligations under **Schedule C**. Lessor/Assignor shall notify Lessee of any assignment no later than ten (10) days after such assignment. Lessor/Assignor shall indemnify Lessee for any liability Lessee may incur due to Lessor/Assignor's failure to notify Lessee of such assignment.

12. Notices:

Unless otherwise specifically provided, any notices to be given under this Lease or any other communications between the parties shall be given by certified mail, postage prepaid in the following manner:

(a) Notices from Lessor to Lessee shall be sent to:

**Union Pacific Railroad Company
1416 Dodge Street
Omaha, NE 68179
Attention: Manager of Leasing -- Room 200**

or other address that Lessee may indicate by written notice to Lessor.

(b) Notices from Lessee to Lessor shall be sent to:

**Electro-Motive Division
General Motors Corporation
9301 W. 55th Street
La Grange, Illinois 60525
Attention: Manager of Lease Locomotive Operations, Dept. 230**

13. Quiet Enjoyment:

So long as Lessee complies with the terms and provisions hereof, Lessee shall be entitled to the use and possession of the Locomotives according to the terms hereof without interference by the Lessor or by any party lawfully claiming by or through the Lessor.

14. Protection of Lessor's Title:

Lessor may, at its option, require Lessee to file this Lease with the Interstate Commerce Commission and elsewhere to protect Lessor's title to the Locomotives. Lessee will, from time to time, execute, acknowledge and deliver to Lessor any and all further instruments reasonably requested by Lessor, for the purpose of protecting Lessor's title to the Locomotives.

15. Taxes:

Lessee shall reimburse Lessor for (or pay directly, but only if instructed by Lessor) all taxes, fees, imposts or other governmental charges, together with any penalties, fines, additions to tax and interest thereon (collectively, "Taxes" and, individually, a "Tax") that may be imposed by any state or local government or other non-Federal taxing authority in the United States or by any foreign

government or taxing authority on the Locomotives, their ownership, delivery, possession, operation, rental or return to Lessor; provided, however, that Lessee shall not be liable for any such Taxes (1) based on, or measured by, or imposed with respect to, Lessor's net or gross income, net or gross receipts, minimum tax or items of tax preference, franchise or privilege of doing business, capital or net worth or value added to the extent such value added taxes are in lieu of a tax based on, or measured by, or imposed with respect to, net or gross income, net or gross receipts, minimum tax or items of tax preference, franchise or privilege of doing business, or capital or net worth; (2) which are being contested during the pendency of such contest; (3) resulting from Lessor's gross negligence or willful misconduct; (4) arising from any act, event or omission occurring after termination of the Lease or the return of the Locomotives; (5) imposed by a governmental authority as a result of Lessor's activities within the jurisdiction of such authority unrelated to the Lease; (6) incurred by reason of any transfer by Lessor of the Locomotives or any part thereof or any interest arising under the lease (including any deemed transfer under section 338 of the Internal Revenue Code of 1986, as amended); (7) to the extent of the excess of such Taxes over the amount of such Taxes that would have been imposed had there not been a transfer by Lessor of an interest arising under the Lease; and (8) to the extent such Taxes are in substitution for any of the Taxes described in the preceding clauses (1) through (7). If Lessee is required by law or administrative practice to make any report or return with respect to such Taxes, Lessee shall promptly advise Lessor thereof in writing and shall cooperate with Lessor to ensure that such reports are properly filed and accurately reflect Lessor's interest in the Locomotives. If Lessor receives notice of a claim for Taxes from any taxing authority that could result in an indemnity hereunder, Lessor shall promptly give notice of such claim to Lessee. If so requested by Lessee, Lessor shall, at Lessee's sole expense, cooperate fully with Lessee in contesting any claim for Taxes, provided that Lessor shall have received an indemnity satisfactory to Lessor for any liability, expense or loss arising out of or relating to such contest. Lessee shall not be obligated to pay any Tax which it is required to indemnify hereunder so long as such contest is pending unless payment is a precondition to such contest or is necessary to protect Lessor's interest in the Locomotives in which event Lessee shall advance the amount of such Tax to Lessor as an interest-free loan until such contest is resolved. If Lessor shall obtain a repayment of any Tax indemnified by Lessee hereunder, Lessor shall promptly pay to Lessee the amount of such repayment together with any interest received by Lessor thereon plus the benefits of any tax savings resulting from such repayment to Lessee."

16. Performance Obligations of Lessee by Lessor:

In the event that Lessee shall fail duly and promptly to perform any of its obligations hereunder, the Lessor may, at its option, perform same for the account of Lessee without thereby waiving such default. Any amount paid or expense (including reasonable attorneys' fees), incurred by the Lessor in such performance, together with interest at the lesser of 1% per month or the highest amount allowed by law thereon until paid, shall be payable by the Lessee upon demand as additional rent hereunder.

17. Lessee's Covenants:

Lessee will, during the term of this Lease: (a) defend at Lessee's own cost any action, proceeding or claim affecting the Locomotives; (b) do everything necessary or expedient to preserve or perfect the Lessor's interest in the Locomotives; (c) not misuse, fail to maintain, secrete, sell, rent, lend, encumber or transfer the Locomotives, except as provided in Section 10 hereof; and (d) permit Lessor to enter upon Lessee's premises or wherever the Locomotives may be located at any reasonable time and upon reasonable notice to inspect the Locomotives. The provisions of this

Section shall survive the termination of this Lease.

18. Default:

- (a) An event of default shall occur if Lessee:
 - (i) fails to pay when due any installment of rent and such failure continues uncured for ten (10) days after written notice thereof to Lessee by Lessor;
 - (ii) fails in any of its obligations hereunder and such failure continues uncured for fifteen (15) days after written notice thereof to Lessee by Lessor;
 - (iii) ceases doing business as a going concern;
 - (iv) files a voluntary petition in bankruptcy or files a petition seeking reorganization, composition, readjustment, liquidation, dissolution or similar arrangement or files an answer admitting the material allegations of a petition filed against it for such purpose.
 - (v) consents to or acquiesces in the appointment of a trustee, receiver, or liquidator of it or of any substantial part of its assets;
 - (vi) fails to have any proceeding seeking reorganization, arrangement, readjustment, liquidation, dissolution or the appointment of any trustee, receiver or liquidator of any part of its assets dismissed or vacated within sixty (60) days; or
 - (vii) attempts to remove, sell, transfer, encumber, part with possession or sublet any Locomotive or any part thereof in a manner prohibited hereunder.
- (b) Upon the occurrence of an event of default, Lessor, at its option, may:
 - (i) declare all sums due and to become due hereunder immediately due and payable;
 - (ii) proceed by appropriate court action to enforce performance by the Lessee of any and all covenants hereof and to recover damages for the breach thereof;
 - (iii) demand that Lessee deliver the Locomotives forthwith to Lessor at Lessee's expense at such place as Lessor may designate; or
 - (iv) without notice or legal process, enter into any premises of or under control of Lessee or any agent of Lessee where any Locomotive may be and retake all or any item thereof, in accordance with applicable law, Lessee hereby expressly waiving all further rights to possession of the Locomotives and all claims for damages related to any such retaking.
- (c) If any statute governing any proceeding hereunder specifies the amount of Lessor's deficiency or other damages for breach of this Lease by the Lessee, Lessor shall be entitled to an amount equal to that allowed under such statute.
- (d) Lessor's remedies hereunder shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its

favor existing at law or in equity. Lessee hereby waives: (i) any requirements of law which might limit or modify the remedies herein provided, and (ii) any claim to any right of offset against the rental payments due hereunder. Lessor shall, moreover, be entitled to all rights provided for in any bankruptcy act, including the right to take possession of any Locomotive upon any event of default hereunder, regardless of whether Lessee is in reorganization.

- (e) No failure or delay by Lessor in exercising, any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege by Lessor preclude any other or further exercise thereof, or the exercise of any other right, power or privilege.

19. Choice of Law:

This Lease shall be governed in all respect by the Law of the State of Illinois and shall be deemed to be entered into in the State of Illinois.

20. Miscellaneous:

- (a) Prior to the beginning and prior to return each Locomotive will be jointly inspected at the Chicago and North Western (CNW) railroad Proviso, Illinois rail yard. All transportation charges associated with delivering and returning the Locomotives the CNW Proviso, Illinois rail yard shall be borne by Lessee.
- (b) If any part hereof is contrary to, prohibited by or deemed invalid under applicable laws or regulations of any jurisdiction, such provision shall be inapplicable and deemed omitted but shall not invalidate the remaining provisions hereof.
- (c) This Lease is irrevocable for the full term hereof.
- (d) This Lease and **Schedules A, B, and C** hereto constitute the entire agreement between the parties concerning the Lease of the Locomotives and no modification hereof shall be effective unless reduced to writing and signed by authorized representatives of the parties.

IN WITNESS WHEREOF the parties hereto intending to be legally bound thereby have executed this Agreement as of the date first above written.

Attest: 

Attest: _____

General Motors Corporation
Electro-Motive Division

By: 

Title: ASSISTANT SECRETARY

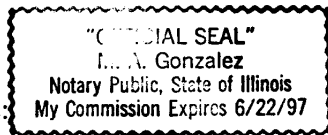
Union Pacific Railroad Company

By: 

Title: Vice President-Purchasing

State of Illinois)
County of Cook)

On this 16th day of February, 1995, before me personally appeared Keith A. Gonzalez, to me personally known, who, being by me duly sworn, did say that he is a representative of Electro-Motive Division, General Motors Corporation, that the instrument was signed on behalf of such corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.



J. A. Gonzalez
Notary Public

My commission expires: _____

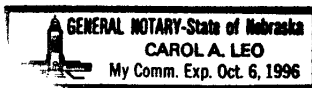
State of Nebraska)
County of Douglas)

On this 27th day of January, 1995, before me personally appeared Charles R. Eisele, to me personally known, who, being by me duly sworn, did say that he is a representative of the Vice President-Purchasing, that the instrument was signed on behalf of such corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.

Carol A. Leo
Notary Public

My commission expires: _____

October 6, 1996



SCHEDULE A
LEASED LOCOMOTIVES
Road Number(s), Model(s), and Casualty Values

Road #	Model	Casualty Value
7000	SD70M	\$1,610,000
7001	SD70M	1,610,000
7002	SD70M	1,610,000
7003	SD70M	1,610,000
7004	SD70M	1,610,000
7005	SD70M	1,610,000
7006	SD70M	1,610,000
7007	SD70M	1,610,000
7008	SD70M	1,610,000
7009	SD70M	1,610,000
7010	SD70M	1,610,000
7011	SD70M	1,610,000
7012	SD70M	1,610,000
7013	SD70M	1,610,000
7014	SD70M	1,610,000
7015	SD70M	1,610,000
7016	SD70M	1,610,000
7017	SD70M	1,610,000
7018	SD70M	1,610,000
7019	SD70M	1,610,000
7020	SD70M	1,610,000
7021	SD70M	1,610,000
7022	SD70M	1,610,000
7023	SD70M	1,610,000
7024	SD70M	1,610,000

SCHEDULE B
LEASE TERM, DAILY RENTAL RATE, OPTIONS, SUBLEASED LOCOMOTIVES

Lease Term

The lease term with respect to each Locomotive delivered pursuant to this Lease shall commence on the date the Locomotive(s) is delivered in interchange, to a point on the Lessee's lines and end April 30, 1996.

Rent

The daily rent for each SD70M Locomotive will be \$750/day.

Option To Renew

With 90 days written notice prior to lease expiration and subject to prior sale or lease by the Lessor, the Lessee has the option to renew this Lease, for all but not less than all of these locomotives, in 180 day increments. The daily rental rate during the renewal period will be negotiated at the fair market value for locomotives of similar age and condition, however, the revised rate will not be lower than actual Lessor's costs.

SCHEDULE C

MAINTENANCE RESPONSIBILITIES

Lessee shall:

1. Comply with all safety and environmental regulations, directives and instructions of the FRA and all governmental authorities regardless upon whom such requirements are, by their terms, nominally imposed, and keep the Locomotives in such compliance.
2. Be responsible for all material and labor required to perform:
 - (a) Scheduled maintenance in accordance with current Union Pacific practice.
 - (b) Failure repairs (other than those which are Lessor's responsibility as specified below).
 - (c) Wheel truing and replacement.
 - (d) Replace lost, stolen or damaged parts and all collision damage including draft gear pockets.
3. Use fuel, lubricants, and coolant satisfying EMD Maintenance Instructions 1748, 1750, 1752, 1756, and 1764, and Lessee's own maintenance schedules.
4. Use OEM built parts exclusively.

Lessor shall:

Lessor shall provide training and any necessary test equipment to the Lessee in order to diagnose, calibrate, and/or otherwise repair any FRA mandated equipment (ie: speed indicator, event recording equipment, etc) applied to the Locomotive by the factory, that is not standard to the Lessee.

The Lessor will provide a serviceable replacement component prepaid to the Lessee for any failed, worn out, or otherwise defective component, provided that the failure or wear out was not caused by improper use, abuse, modification, or lack of preventative maintenance as described above by Lessee. Lessor will only warrant failed components of its own design, manufacture, and assembly.

The removed/replaced component must be presented to an authorized OEM Service/District Service Engineer (OEM Representative) for evaluation and return to the factory for further disposition. It is understood that this disposition will closely follow the current OEM warranty policy. Following OEM Representative evaluation, the Lessee agrees to return the component collect, to a location designated by the Lessor. The Lessee and Lessor will negotiate determination regarding any warranty due on a component by component basis. The Lessee however does not give up its right to contest the OEM Representative's field warranty determination. Lessee further agrees that if upon further analysis it is proven that the original failure or wear out was due to any of the exceptions outlined in the above paragraph, to reimburse the Lessor for the replacement component including shipping charges and any Lessor paid labor charges. Lessor shall reimburse Lessee for labor to

remove and install only the warranted items indicated in the following Warranty Labor Reimbursement Schedule, at the rate of \$20 per hour.

Warranty Labor Reimbursement Schedule:

<u>Component Description</u>	<u>Install and Remove Labor Allowance Hours</u>
Accessory Gear Train	40
Air Compressor	32
Auxiliary Generator	16
Engine	80
Power Assembly	6
Radiator (Complete Set)	32
Rear Gear Train	64
Traction Alternator	20
Truck Assembly (single)	8
Turbocharger	20
Traction Motor	8

Lessor shall be responsible for both labor and material for OEM modifications as prescribed and required by Lessor. On a per Locomotive, per incident, non-cumulative basis, rental shall abate if the out of service time exceeds 72 hours for Lessor prescribed and required modifications. Lessee has option to return Locomotives to Lessor for any required OEM modifications.